

Amendments to House Bill No. 43  
1st Reading Copy

Requested by Representative Gary MacLaren

For the House Human Services Committee

Prepared by Sue O'Connell  
January 22, 2011 (1:20pm)

1. Page 2, line 8.

Strike: "or"

Insert: ". The term includes"

2. Page 2, line 9.

Strike: "(a)"

3. Page 2, line 11 through line 12.

Strike: line 11 through line 12 in their entirety

Renumber: subsequent subsections

4. Page 2, line 20.

Strike: line 20 in its entirety

Renumber: subsequent subsections

5. Page 8, line 15 through line 19.

Following: "workplace"

Strike: "in the course" on line 15 through "marijuana" on line 19

Insert: "the medical use of marijuana"

6. Page 8, line 24 through line 27.

Following: "49-1-102" on line 24

Strike: "based on" on line 24 through "employment" on line 27

- END -

- 1 (i) hazardous work environment;  
 2 (ii) security position; or  
 3 (iii) position;  
 4 (A) affecting public safety; or public health;  
 5 (B) in which driving a motor vehicle is necessary for any part of the individual's work duties;  
 6 (C) involving the instruction or supervision of minors; or  
 7 (D) involving a fiduciary position responsibility for an employer.  
 8 (b) and The term does not include an independent contractor. The term includes <sup>The term includes</sup> or an elected official.  
 9 (5) ~~(a)~~ "Employer" means a person or entity that has one or more employees and that is located in or  
 10 doing business in Montana.

11 ~~(b) The term includes the governing body of a local government.~~

12 ~~(6) "Governing body" means the legislative authority of a local government.~~

13 (6)(7) "Hazardous work environment" includes but is not limited to positions:

14 (a) for which controlled substance and alcohol testing is mandated by federal law, such as aviation,  
 15 commercial motor carrier, railroad, pipeline, and commercial marine employees;

16 (b) that involve the operation of or work in proximity to construction equipment, industrial machinery, or  
 17 mining activities; or

18 (c) that involve handling or proximity to flammable materials, explosives, toxic chemicals, or similar  
 19 substances.

20 ~~(8) "Local government" means a city, town, county, or consolidated city county.~~

21 (7)(9) "Medical review officer" means a licensed physician trained in the field of substance abuse.

22 (8)(10) "Prospective employee" means an individual who has made a written or oral application to an  
 23 employer to become an employee.

24 (9)(11) "Qualified testing program" means a program to test for the presence of controlled substances  
 25 and alcohol that meets the criteria set forth in 39-2-207 and 39-2-208.

26 (10)(12) "Sample" means a urine specimen, a breath test, or oral fluid obtained in a minimally invasive  
 27 manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance  
 28 of drug testing that is used to determine the presence of a controlled substance or alcohol."

29

30 **Section 2.** Section 39-2-210, MCA, is amended to read:

1       **Section 7.** Section 50-46-205, MCA, is amended to read:

2       **"50-46-205. Limitations of Medical Marijuana Act.** (1) This chapter does not permit:

3       (a) any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or  
4       motorboat while under the influence of marijuana;

5       (b) the use of marijuana by a caregiver; or

6       (c) the smoking of marijuana by a qualifying patient:

7       (i) in a school bus or other form of public transportation;

8       (ii) on any school grounds;

9       (iii) in any correctional facility; or

10       (iv) at any public park, public beach, public recreation center, or youth center.

11       (2) Nothing in this chapter may be construed to require:

12       (a) a government medical assistance program ~~or, a private health insurer that is covered by the~~  
13       provisions of Title 2, chapter 18, or the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse  
14       a person for costs associated with the medical use of marijuana; or

15       (b) an employer to accommodate ~~the medical use of marijuana in any workplace in the course and scope~~  
16       ~~of employment;~~

17       ~~(i) the medical use of marijuana by an employee; or~~

18       ~~(ii) an employee who is under the influence of marijuana because of the employee's medical use of~~  
19       ~~marijuana.~~ *the medical use of marijuana*

20       (3) Nothing in this chapter may be construed to:

21       (a) prohibit an employer from including in any contract a provision prohibiting the medical use of  
22       marijuana; or

23       (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or  
24       discrimination pursuant to 49-1-102 based on;

25       ~~(i) an employee's medical use of marijuana in the course and scope of employment; or~~

26       ~~(ii) actions by an employee who was under the influence of medical marijuana in the course and scope~~  
27       ~~of employment.~~

28       ~~(3)~~(4) Nothing in this chapter may be construed to allow a caregiver to use marijuana or to prevent  
29       criminal prosecution of a caregiver who uses marijuana or paraphernalia for the caregiver's personal use."

30